

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 715 of 2006

MADAN LAL
V/S
NIRANJAN DAS SETIA & ORS.

Mr. RS CHOUDHARY for Mr. GR PUNIA, for the appellant /
petitioner

Date of Order : 14.9.2007

HON'BLE SHRI N P GUPTA, J.

ORDER

Heard learned counsel for the petitioner.

It is contended by learned counsel for the petitioner, that the order dated 2.1.2006, Annex.7, be set aside, whereby the learned trial Court has ordered, that the objection raised in the application shall be considered, after taking the evidence of the parties. It is contended by learned counsel, that as a matter of fact, the election petition is barred, and is required to be dismissed under Order 7 Rule 11, and therefore, it should be dismissed as such.

Perusal of the application under Order 7 Rule 11, alongwith the application for its amendment, shows, that the only stand taken is, that at the time of scrutiny of nominations, objection was not raised, and therefore, the election petitioner has waived his right to challenge the

election, now.

Learned counsel for the petitioner was pointedly asked, to substantiate the submission, on the basis of any legal authority, to the effect, that where at the time of scrutiny of nominations, objection is not raised, the election cannot be called in question subsequently, by way of election petition. Learned counsel could not point out any legal provision, or any precedent, to this effect.

On the other hand, a look at the election petition shows, that the ground of challenging the election is, that the returned candidate was a convict, and by concealing the fact of conviction, he contested the election, while in view of the provisions of Section 26(1) of the Rajasthan Municipalities Act, he was disqualified from contesting the election, and a look at provisions of Section 34(1)(a) of the Rajasthan Municipalities Act shows, that the returned candidate, being not qualified, or being disqualified to be chosen to fill the seat, is one of the grounds, on which election petition can be filed.

In that view of the matter, I do not find any force in the writ petition, so also, I do not find any merit in the application under Order 7 Rule 11. The writ petition is, therefore, dismissed summarily. The learned trial Court is, however, directed to decide the election

petition most expeditiously.

(N P GUPTA), J.

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